

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD

NOTICE OF AIR QUALITY PUBLIC HEARINGS

The New Mexico Environmental Improvement Board will hold consecutive public hearings on November 17, 18 and 19, 2003 at 9:30 a.m. at the New Mexico State Capitol Building, Room 321, Santa Fe, New Mexico, to consider revisions to New Mexico's State Implementation Plan to incorporate federal regional haze requirements, including adopting 20.2.65 NMAC (Smoke Management) and 20.2.81 NMAC (Western Backstop Sulfur Dioxide Trading Program), and revising 20.2.73 NMAC (Notice of Intent and Emission Inventory Requirements). In addition, the Board will consider whether to repeal and replace 20.2.60 NMAC (Open Burning).

The proponent of these state implementation plan revisions and regulatory changes is the New Mexico Environment Department.

Proposed Revisions to New Mexico's State Implementation Plan to Incorporate Regional Haze

The proposed revisions would allow the Department to comply with the federal Clean Air Act and the associated EPA requirements under 40 CFR § 51.309 (Section 309). Section 309 of the federal Regional Haze Rule incorporates the recommendations of the Grand Canyon Visibility Transport Commission (GCVTC), including strategies for combating regional haze such as reducing smoke, preventing air pollution through energy efficiency, reducing dust from dirt roads, reducing air pollution from industrial sources, reducing pollution from vehicles (mobile sources), and other measures to reduce haze-producing air pollution.

The revision to the State Implementation Plan (SIP) follows the requirements of Section 309 of the Regional Haze Rule and incorporates the work products of both the GCVTC and its successor agency, the Western Regional Air Partnership (WRAP). New Mexico was a member of the GCVTC and is a continuing member of the WRAP. New Mexico's Section 309 Regional Haze SIP must be submitted to EPA by December 31, 2003.

In addition to the proposed Regional Haze SIP, two proposed new regulations and one proposed revised regulation will be part of this rulemaking. These regulations include requirements pertaining to the Regional Haze SIP. The regulations are 20.2.65 NMAC – *Smoke Management* (Part 65), 20.2.81 NMAC – *Western Backstop Sulfur Dioxide Trading Program* (Part 81), and 20.2.73 NMAC – *Notice of Intent and Emission Inventory Requirements* (Part 73).

Part 65 contains the requirements for vegetation burning above the de minimus levels regulated in *Open Burning* (20.2.60 NMAC). This regulation applies to persons who burn above these de minimus levels in New Mexico, including farmers, ranchers, orchardists, federal land managers, and others.

Part 81 contains the requirements that would apply to major (100 tons or more per year) industrial sources of sulfur dioxide as a backstop regulatory program if the sulfur dioxide milestones are exceeded. Section 309 of the Regional Haze Rule establishes the mandatory requirements that must be met by New Mexico's implementation plan, including regional sulfur dioxide milestones, sulfur dioxide emissions tracking requirements and a backstop regional cap-and-trade program for sulfur dioxide. Part 81 may never be implemented if the goal to meet the regional sulfur dioxide milestones through voluntary means is achieved. If the rule is implemented, Part 81 establishes the procedures and compliance requirements for sources in the trading program.

The Regional Haze Rule includes emissions inventory requirements for tracking compliance with the sulfur dioxide milestones. In response, the Department has developed revisions to New Mexico's current inventory requirements regulation (20.2.73 NMAC), to establish enforceable provisions and track SO₂ emissions. The proposed revisions to Part 73 add specific language to address the pre-trigger emissions tracking requirements in the sulfur dioxide milestone and backstop trading program.

Proposed Replacement of 20.2.60 NMAC (Open Burning)

The Department is also proposing revisions to 20.2.60 NMAC – *Open Burning* (Part 60). Because of the extensive nature of the revisions, the Department is requesting that the Environmental Improvement Board repeal the existing regulation and replace it with a new regulation. The Department is requesting this hearing in conjunction with the Smoke Management regulation hearing because of the continuum between the two proposed regulations. The current Open Burning regulation has not been significantly revised since it was promulgated in 1970.

The proposed Part 60 would replace the current system of open burning pursuant to Department-issued permits containing individualized conditions with open burning without permit pursuant to a uniform rule. A proposed new section of Part 60 would apply to small-scale burning of vegetative materials that is de minimus in the context of the proposed Smoke Management regulation (20.2.65 NMAC). The Part 60 section would set uniform conditions for burning less than specified amounts of vegetation per day, and would apply to all such burning regardless of land use or purpose of burning.

Also proposed is a prohibition on burning of household waste (other than vegetative materials), to take effect June 1, 2004. The Department proposes new rule language to provide more clarity on the conditions under which household waste may be burned during the interim period before the prohibition takes effect.

The proposed revisions may be reviewed during regular business hours at the office of the Environmental Improvement Board, Harold Runnels Building, 1190 St. Francis Drive, Room S-2054, Santa Fe, NM. Copies of the proposed revisions may be obtained by contacting Rita Trujillo at (505) 955-8024 or by visiting the Department's web site at www.nmenv.state.nm.us. Follow the links to the Air Quality Bureau's page and then to proposed regulations. Questions about the proposed revisions may be addressed to: Rita Trujillo, Manager, Control Strategies Section, Air Quality Bureau, 2044 Galisteo Street, Santa Fe, NM, 87505, telephone number (505) 955-8024. Questions and comments about the proposed revisions should be submitted to Ms. Trujillo by October 31, 2003, in order to be considered by the Department prior to the hearing.

The hearing will be conducted in accordance with 20.1.1 NMAC (Rulemaking Procedures – Environmental Improvement Board), the Environmental Improvement Act, Section 74-1-9 NMSA 1978, and the Air Quality Control Act, Section 74-2-6, NMSA 1978.

All interested persons will be given a reasonable opportunity at the hearing to submit relevant evidence, data, views, and arguments, orally or in writing, to introduce exhibits, and to examine witnesses. Persons wishing to present technical testimony must file with the Board a written notice of intent to do so. The notice of intent shall:

- identify the person for whom the witness(es) will testify;
- identify each technical witness the person intends to present and state the qualifications of that witness, including a description of their educational and work background;
- summarize or include a copy of the direct testimony of each technical witness and state the anticipated duration;
- include the text of any recommended modifications to the proposed regulatory change; and
- list and describe, or attach, all exhibits anticipated to be offered by that person at the hearing.

Notices of intent for the hearing must be received in the Office of the Environmental Improvement Board not later than 5:00 pm on November 7, 2003, and should reference the name of the regulation(s) and the date(s) of the hearing(s). Notices of intent to present technical testimony should be submitted to:

Geraldine Madrid-Chavez
Office of the Environmental Improvement Board
Harold Runnels Building
1190 St. Francis Drive, Room N-2150
Santa Fe, NM 87502

Any person who wishes to submit a non-technical written statement in lieu of oral testimony may do so at or before the hearing.

If you are an individual with a disability and you require assistance or an auxiliary aid, e.g. sign language interpreter, to participate in any aspect of this process, please contact Cliff Hawley by October 17, 2003 at (505) 827-2844 or by mail at Cliff Hawley, Chief of the Program Support Bureau, New Mexico Environment Department, P.O. Box 26110, 1190 St. Francis Drive, Santa Fe, NM, 87502. TDD or TDY users please access his number via the New Mexico Relay Network. Albuquerque TDD users: (505) 275-7333. Outside of Albuquerque: 1-800-659-1779.

Copies of the agenda and the proposed revisions will be provided in alternative forms, e.g. audiotape, if requested by October 17, 2003.

The Board may make a decision on the proposed regulatory change(s) at the conclusion of the hearing(s), or the Board may convene a meeting after the hearing(s) to consider action on the proposal(s).

ss/Gay Dillingham, Chair